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EXAMINER				
EGLOFF, PETER RICHARD				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,991

Applicant(s)

PALACIOS, ANGEL

Examiner

PETER R. EGLOFF

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 July 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10, 14, 17, 18, 20, 23, 32, 36, 39, 40 and 48-58 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 10, 14, 17, 18, 20, 23, 32, 36, 39, 40 and 48-58 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. In response to the preliminary amendment filed 07/04/2006, claims 2-9, 11-13, 15-16, 19, 21-22, 24-31, 33-35, 37-38, and 41-47 have been cancelled; claims 1, 10, 14, 17-18, 20, 23, 32, 36, 39-40, and newly added claims 48-58 are pending.

Claim Objections

2. Claim 57 is objected to because of the following informality: The claim contains two separate sub-headings labeled part "d)". It appears Applicant intended for the second d) to be labeled e), and the examiner will treat the claim accordingly. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, 14, 17, 18, 20, 23, 32, 36, 39, 40 and 48-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 23, 57 and 58, the phrase "there might exist" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention, and regarding claims 14, 18, 36 and 40, 48, 53, the phrase "for example" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. Also, with regards to claims 18 and 40, there is insufficient antecedent basis for the phrases "the escalator tree," "the tower tree," and "the phrase tree." See

MPEP § 2173.05(d). Claims 10, 17, 20, 32, 39, 49, 50, 51, 52, 54, 55 and 56 are rejected for inheriting the deficiencies of their respective parent claim(s), above.

Claim Rejections - 35 USC § 101

4. Claims 23, 32, 36, 39, 40, 54, 55 and 56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a claimed process to be considered statutory it must be: (1) tied to a particular machine or apparatus, or (2) transform a particular article into a different state or thing. The use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility; the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity; and any transformation must be central to the purpose of the claimed process. In the instant case, independent claim 23 recites the steps of inspecting, reproducing, choosing, and generating, but does not recite a specific machine or apparatus (such as a computer presenting the visual and audible prompts through a monitor, speakers, etc.), that would create a sufficient tie to another statutory class. The claim also fails to transform an article into a different state or thing. Claims 32, 36, 39, 40, 54, 55 and 56 are rejected for inheriting the deficiency of their parent claim, 23.

Claims 1, 10, 14, 17, 18, 20 and 48-52 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 1 recites means plus function language, where the components of the claimed invention are means for showing blind extracts, means to aurally reproduce fragments, means to choose a fragment, and means to generate information. The examiner notes that the specification describes at least three

embodiments of the present invention, one of which includes a paper version for presenting the visual stimuli, and an unspecified audio means for presenting the aural stimuli. Therefore, according to the broadest reasonable interpretation of the invention in view of the means plus function language, independent claim 1 is non-statutory because the claim can be drawn merely to printed matter. Claims 10, 14, 17, 18, 20 and 48-52 are dependent on claim 1, and therefore inherit the deficiencies stated above.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 10, 23, 32, 48, 50, 51, 53, 55 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox (US Patent No. 5,336,093).

Regarding claim 1, Cox discloses a system for facilitating language learning wherein said system is used upon samples of a target language, wherein each of said samples is called in this invention original extract, said target language can be a foreign language or it can be the native language of the learner, wherein said system comprises:

a) means to show one or more blind extract for at least one of said original extracts (dots), wherein said blind extracts are graphical entities whose fragments have certain correspondence with fragments of an original extract to which they are associated (column 3, lines 31-34), in the

most general case, said certain correspondence can be such that there might exist fragments in some original extract that do not correspond to any fragment of the blind extract to which it is associated (single syllable words containing no dots), and there might exist fragments in some blind extract that do not correspond to any fragment of the original extract to which it is associated (see Fig. 1),

b) means to aurally reproduce some fragment of some original extract (column 4, lines 17-20),

c) means to choose at least a fragment of a blind extract wherein said fragment is associated to a fragment of an original extract (select a dot – column 3, lines 64-67),

d) means to generate information about said fragment of an original extract which is associated to said fragment of a blind extract (column 3, lines 47-48), and wherein said system can be used as a complement in an approach orientated to language learning.

Regarding claim 23, Cox discloses a method for facilitating language learning wherein said method is used upon samples of a target language, wherein each of said samples is called in this invention original extract, said target language can be a foreign language or it can be the native language of the learner, wherein said method comprises the steps of:

a) inspecting one or more blind extracts (dots) for at least one of said original extracts, wherein said blind extracts are graphical entities whose fragments have certain correspondence with fragments of an original extract to which they are associated (column 3, lines 31-34 - see Fig. 1), in the most general case, said certain correspondence can be such that there might exist fragments in some original extract that do not correspond to any fragment of the blind extract to

which it is associated, and there might exist fragments in some blind extract that do not correspond to any fragment of the original extract to which it is associated,

- b) aurally reproducing some fragment of some original extract (column 4, lines 17-20),
- c) choosing at least a fragment of a blind extract of said blind extracts wherein said fragment is associated to a fragment of an original extract of said original extracts (column 3, lines 64-67),
- d) generating information about said fragment of an original extract which is associated to said fragment of a blind extract (column 3, lines 47-48), and wherein said method can be used as a complement in an approach orientated to language learning.

Regarding claims 10, 32, 48, 50, 51, 53, 55 and 56, Cox further discloses at least a blind extract that is a segmental blind extract, whose distinguishing feature is that it is divided into parts which are visually differentiated (dots) and which correspond to the segments of the words of said original extract, wherein said segments are units of sound of lower level than syllables (vowels - column 2, lines 61-68) (as per claims 10 and 32), means to show the phrase structure of at least one of said blind extracts in some form, such as for example another type of form (Cox specifically discloses spaces in between syllables to emphasize the phrasing – see Fig. 1) (as per claims 18 and 40), said information about said fragment of an original extract is a playback of said fragment of original extract (column 3, lines 47-48) (as per claims 48 and 53), at least a blind extract which is a syllabic blind extract, whose distinguishing feature is that it is divided into parts which are differentiated visually and which correspond to the syllables of said original extract (column 3, lines 31-34) (as per claims 50 and 55), and at least a blind extract whose

distinguishing feature is that it is divided into parts which are differentiated visually and which correspond to the words of said original extract (see Fig. 1) (as per claims 51 and 56).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 49 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (US Patent No. 5,336,093).

Regarding claims 49 and 54, Cox does not explicitly disclose the words of at least one original extract are biunivocally associated to the fragments of the blind extract to which said original extract is associated, i.e. for each and every word in said original extract there exists one and only one fragment in said blind extract, and there is no fragment of said blind extract which is not associated to a word in said original extract or to some punctuation sign in said original extract (as per claims 49 and 54). However, one of ordinary skill in the art at the time of the

invention would have found it obvious to try associating each word of the passage with only one blind extract. A conclusion that a claimed feature would have been obvious to try must show the following: a finding that at the time of the invention, there had been a recognized problem or need in the art, a finding that there had been a finite number of identified, predictable potential solutions, a finding that one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success, and any secondary considerations. In this case, there was a recognized need to teach language and reading skills to students by helping the students separate and distinguish the various portions of a sentence. One of ordinary skill in the art presented with the teachings of Cox would have found a finite number of identified, predictable solutions for separating a sentence into its component parts, such as phrases, words, syllables, and phonemes. Accordingly, one of ordinary skill in the art would have found it obvious to try associating each fragment of the blind extract with each word of the original extract, instead of with each syllable, as Cox teaches, with a reasonable expectation of success in teaching the student word by word, instead of syllable by syllable.

10. Claims 14, 17, 20, 36, 39, 52, 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (US Patent No. 5,336,093) in view of Siegel (US Patent No. 5,799,267).

Regarding claims 14, 17, 36, 39 and 52, Cox does not explicitly disclose means to graphically emphasize certain parts of at least one blind extract among said blind extracts, using for example a special font format or some other graphical means (as per claims 14 and 36), wherein said graphical emphasizing is performed simultaneously to the aural reproduction of a fragment of the extract, so that the parts that are reproduced at a given moment are

approximately the same parts that are graphically emphasized at the same moment (as per claims 17 and 39), and wherein said means can be applied to graphically emphasize at least a fragment of said blind extract, said fragment being associated to a fragment of an original extract, said fragment of an original extract being linguistically relevant, wherein the candidate linguistically relevant fragments are segments, or syllables, or words or phrases (as per claim 52). However, Siegel discloses a similar language learning method that includes means for emphasizing parts of a passage by highlighting, and performing this emphasizing simultaneously with the aural reproduction of the passage, where a linguistically relevant word may be further emphasized by presenting a pictorial depiction of the word (column 11, lines 1-25). Since Cox discloses presenting a blind extract of an original extract, and Siegel discloses the process of highlighting a sequence of word in an extract while simultaneously presenting the fragments of the extract aurally, and further presenting pictorial representations of relevant fragments, it would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by including means to graphically emphasize parts of the blind extract along with the aural reproduction of certain fragments, wherein the fragments are linguistically relevant fragments, with the motivation of helping the user to learn to pronounce the fragments by following along visually while hearing the correct pronunciation.

Regarding claim 20, Cox discloses allowing the user to select fragments of the extract and perform aurally reproductions of one or more fragments of said original extract, wherein a fragment can be the a segment, a syllable, a word, a group of words or the whole original extract itself (column 4, lines 17-20). Cox does not explicitly disclose a monitor, such as a computer monitor or a television means to show blind extracts on said monitor control logic that allows a

user to interact with at least one of said blind extracts, and which allows the user to select fragments of the blind extract on the monitor to be played (as per claim 20). Instead, Cox discloses the fragments are displayed on a page, and the fragments are played aurally using an audio tape. However, Siegel discloses that such display of extracts on a computer monitor, and allowing the user to select extracts to be presented aurally using the computer, is well known in the art of language learning (column 4, lines 2-11; column 11, lines 1-25). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by implementing the displaying and selecting using a computer and monitor, with the motivation of being able to provide a much larger collection of extracts for presentation to the user.

Regarding claims 57 and 58, Cox discloses a system for performing the following steps:

a) managing samples of a target language, wherein each of said samples is called in this invention original extract, wherein said target language can be a foreign language or it can be the native language of the learner (see Fig. 1),

b) showing one or more blind extracts (dots) for at least one of said original extracts, wherein said blind extracts are graphical entities whose fragments have certain correspondence with fragments of an original extract to which they are associated, in the most general case, said certain correspondence can be such that there might exist fragments in some original extract that do not correspond to any fragment of the blind extract to which it is associated, and there might exist fragments in some blind extract that do not correspond to any fragment of the original extract to which it is associated (column 3, lines 31-34),

c) aurally reproducing some fragment of some original extract (column 4, lines 17-20)

d) choosing at least a fragment of a blind extract of said blind extracts wherein said fragment is associated to a fragment of an original extract of said original extracts (column 3, lines 54-67),

e) generating information about said fragment of an original extract which is associated to said fragment of a blind extract (column 3, lines 47-48), and wherein said steps can be used as a complement in an approach orientated to language learning.

It is noted that Cox does not explicitly disclose the system is a computer readable medium containing computer executable instructions that, when executed by one or more processors of a computer, allows said one of more processors to perform the steps (as per claim 57), or a computer readable medium containing a data set that, when interpreted by one or more processors of a computer, allows said one of more processors to perform the steps (as per claim 58). However, Siegel teaches the use of a computer readable medium containing instructions (or a data set) that can be executed by a processor to perform similar language teaching functions (column 4, lines 1-11). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by using a computer-readable medium executable by a processor, as taught by Siegel, to implement Cox's method, as such a modification would involve applying a known technique to a known device to yield predictable results.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walker (US Patent No. 5,802,533) discloses a text enhancement method and

apparatus for the presentation of text for improved human reading. Van Patten (US Patent No. 3,724,102) discloses a language teaching device. Komissarchik et al. (US Patent No. 6,397,185 B1) discloses a language pronunciation tutoring system. Phillips (US Patent No. 5,651,678) discloses an educational reading aid.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Egloff whose telephone number is (571) 270-3548. The examiner can normally be reached on M-F 7:30am - 5:00 pm EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached at (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

Peter Egloff
2/23/08

